

Message Text

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FM AMEMBASSY LISBON

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FOR ATTENTION OF DOC/INVESTMENT POLICY DIVISION

E.O. 11652: N/A

TAGS: EINV, ECON, ELAB, ETRD, PO

SUBJ: PORTUGUESE FOREIGN INVESTMENT CODE

REF: STATE 242996

1. FOREIGN INVESTMENT IN PORTUGAL IS GOVERNED BY THE FOREIGN INVESTMENT CODE OF AUGUST 1977 (DECREE LAW 348/77, AUGUST 24, 1977). PRESENT CODE REPLACED AN APRIL 1976 LAW WIDELY REGARDED AS BEING SO RESTRICTIVE THAT IT CONSTITUTED A DISINCENTIVE TO FOREIGN INVESTMENT. GENERALLY, THE NEW CODE PERMITS DIRECT FOREIGN INVESTMENT IN ALL ECONOMIC SECTORS EXCEPT THOSE RESERVED FOR THE PUBLIC DOMAIN (STATUTE 46/77 OF JULY 8, 1977). IT CONTAINS LIBERAL PROFIT REMITTANCE REGULATIONS AND ALLOWS FOREIGN FIRMS ACCESS TO ALL TAX INCENTIVES AVAILABLE TO NATIONAL COMPANIES. ADDITIONAL INCENTIVES CAN BE NEGOTIATED. A FOREIGN INVESTMENT INSTITUTE, RESPONSIBLE TO THE MINISTRY OF PLANNING AND ECONOMIC COOPERATION, IS TO BE ESTABLISHED. IT WILL BE RESPONSIBLE FOR AUTHORIZING AND SUPERVISING FOREIGN INVESTMENTS.

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2. INCENTIVES FOR INVESTMENT: FOREIGN INVESTMENTS WHICH THE GOVERNMENT DEEMS TO BE OF SPECIAL INTEREST BECAUSE OF THEIR MAGNITUDE OR LONG TERM ECONOMIC BENEFITS CAN OBTAIN SPECIAL FISCAL AND/OR OTHER INCENTIVES, AS SPELLED OUT IN THE INITIAL INVESTMENT AUTHORIZATION, IF THEY FULFILL THEIR CONTRACTUAL CONDITIONS. BENEFITS AVAILABLE INCLUDE: PRIORITY IN THE CASE OF DIVIDEND AND PROFIT TRANSFERS; PRIORITY ACCESS TO MEDIUM

AND LONG TERM CREDIT AT FAVORABLE INTEREST RATES;
GUARANTEES FOR FOREIGN CREDITS TO IMPORT CAPITAL GOODS; STATE
ASSISTANCE IN PROVIDING INFRASTRUCTURE RELATED TO THE PROJECT;
GRANTING OF SPECIAL FISCAL BENEFITS - EG. REDUCED TAX RATES,
EXEMPTION FROM OR REDUCTION OF CUSTOMS DUTIES. THE CODE
ALSO GUARANTEES THAT THE BANK OF PORTUGAL WILL AUTHORIZE
THE PURCHASE OF FOREIGN EXCHANGE FOR REMITTANCES OF DIVIDENDS,
PROFITS AND THE PROCEEDS FROM SALE OR LIQUIDATION OF FOREIGN
INVESTMENTS. THE TIMING FOR EXCHANGE AVAILABILITY, HOWEVER,
DEPENDS ON THE STATE OF PORTUGAL'S BALANCE OF PAYMENTS.

3. PERFORMANCE REQUIREMENTS: THE CODE SPELLS OUT THE FOLLOWING
BROAD CRITERIA IN EVALUATING ALL POTENTIAL FOREIGN
INVESTMENTS; CREATION OF NEW JOBS; CONTRIBUTION TO THE BALANCE
OF PAYMENTS; MAXIMUM VALUE ADDED TO NATIONAL RESOURCES;
UTILIZATION OF NATIONAL GOODS AND SERVICES; CONTRIBUTION
TO INDUSTRIAL RECONVERSION PROJECTS; MAXIMIZING REGIONAL DEVELOPMENT;
PRODUCTION OF NEW GOODS AND SERVICES OR IMPROVEMENT IN QUALITY OF
THOSE ALREADY PRODUCED IN PORTUGAL; INTRODUCTION OF ADVANCED
TECHNOLOGY; TRAINING OF PORTUGUESE WORKERS; MINIMIZING INDUSTRIAL
POLLUTION. FOREIGN INVESTMENTS ENTITLED TO ADDITIONAL INCENTIVES
UNDER THE CONTRACTUAL REGIME ARE SUBJECT TO THE FOLLOWING SPECIFIC
PERFORMANCE REQUIREMENTS: CREATION OF AT LEAST 250 PERMANENT JOBS;
THE EXPECTATION OF AT LEAST ONE THIRD THE VALUE OF THE IMPORTS;
THE GUARANTEE THAT TRANSFERS OF PROFITS AND TECHNOLOGY
PAYMENTS WILL NOT EXCEED THE AMOUNT OF THE TOTAL IMPORTED CAPITAL
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FOR A FIXED PERIOD OF YEARS, DEPENDING ON THE NATURE OF THE PROJECT;
FINANCING FOR THE PROJECT FROM THE COMPANY'S OWN CAPITAL FOR AT
LEAST 50 PERCENT OF THE FIXED CAPITAL INVESTMENT REQUIRED.

4. LABOR AND EMPLOYMENT ASPECTS: THE CODE CONTAINS SEVERAL
PROVISIONS RELATING TO THE EMPLOYMENT OF FOREIGN NATIONALS, THEIR
SALARY LEVELS AND ABILITY TO TRANSFER INCOME. THE EMPLOYMENT
OF FOREIGN NATIONALS, WHILE AUTHORIZED, IS CONDITIONED UPON A PLAN
FOR GRADUAL REPLACEMENT BY PORTUGUESE NATIONALS IN TECHNICAL AND
MANAGEMENT POSITIONS. PAYMENTS TO FOREIGN NATIONALS ARE NOT
SUBJECT TO THE NATIONAL MAXIMUM SALARY SCALES IN EFFECT FOR
PORTUGUESE NATIONALS, AND MAY BE FREELY TRANSFERRED ABROAD
FOR A PERIOD OF UP TO 3 YEARS.

5. GIVEN THE RECENCY OF THE NEW FOREIGN INVESTMENT CODE
(PROMULGATED TWO MONTHS AGO), EMBASSY IS AS YET UNABLE TO ASSESS
HOW MEASURES ARE BEING IMPLEMENTED OR DEGREE OF FLEXIBILITY SHOWN
BY GOVERNMENT IN EVALUATING A PROPOSED INVESTMENT. CLEARLY,
THE THRUST OF THE CODE - PARTICULARLY WHEN COMPARED WITH THE
PREVIOUS REGULATIONS - IS IN THE DIRECTION OF ENCOURAGING FOREIGN
CAPITAL INFLOWS.

6. FOR FURTHER REPORTING ON THE CODE SEE LISBON 6701, 6673.
INFORMAL ENGLISH TRANSLATION OF TEXT WAS POUCHED TO DEPARTMENT IN
LISBON A-265 OF SEPTEMBER 30, 1977.
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Disposition Event:
Disposition History: n/a
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TAGS: EINV, ECON, ELAB, ETRD, PO
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Type: TE
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